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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,367	07/27/2001	Scott T. Trosper	MI40-333	8104
21567	7590	04/29/2004	EXAMINER	
WELLS ST. JOHN P.S. 601 W. FIRST AVENUE, SUITE 1300 SPOKANE, WA 99201			PHAM, TOAN NGOC	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/915,367

**Applicant(s)**

TROSPER, SCOTT T.

**Examiner**

Toan N Pham

**Art Unit**

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-23, 25-44, 46-53, 55-61 and 63-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-15, 25-30, 36-44, 58-61, 64 and 65 is/are allowed.
- 6) ☒ Claim(s) 1-3, 16-23, 31-35, 46-57, 63 and 66-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 16-20-24, 31-35, 46-57, 63, 66, 67 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 6,133,836) in view of Elberty et al. (US 6,084,512).

Regarding claim 1: Smith discloses a wireless communication device includes a substrate (18); a communication circuitry (54) of the integrated circuit coupled to the substrate and configured to receive a wireless signal including the identification signal; to process the identification signal of the wireless signal and to output a control signal responsive to the processing of the identification signal; wherein the communication circuitry is configured to output another wireless signal including backscattering electromagnetic energy received by the radio frequency identification device (col. 3, lines 21-51; col. 5, lines 20-60). Smith does not disclose an indication circuitry. Elberty discloses a radio frequency identification device includes an indication circuitry coupled to the communication circuitry for receiving and indicating the presence of the radio frequency identification device (col. 4, lines 21-24; col. 5, lines 23-49; Figs. 1, 5). At the time of the invention, it would have been obvious to one of ordinary skill in the art to

utilize an indication device as taught by Elberty et al. in a system as disclosed by Smith for indication the received signal and for visually signaling to the user that the signal has been physically been received.

Regarding claim 2: Elberty et al. discloses the indication circuitry includes a light emitting device (518) configured to emit a human visible signal to indicate the presence (col. 10, lines 45-48).

Regarding claim 3: Elberty et al. discloses the wireless signal includes data and the communication circuitry is configured to output the control signal comprising the data (col. 10, lines 24-48).

Regarding claim 4: Elberty et al. discloses the communication circuitry is configured to output a wireless signal (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 16: Smith discloses a wireless communication device includes a substrate (18); a communication circuitry (54) of the integrated circuit coupled to the substrate and configured to receive a wireless signal including the identification signal; to process the identification signal of the wireless signal and to output a control signal responsive to the processing of the identification signal; wherein the communication circuitry is configured to output another wireless signal including backscattering electromagnetic energy received by the radio frequency identification device (col. 3, lines 21-51; col. 5, lines 20-60). Smith does not disclose an indication circuitry. Elberty discloses a radio frequency identification device includes an indication circuitry coupled to the communication circuitry for receiving and indicating the presence of the radio frequency identification device (col. 4, lines 21-24; col. 5, lines 23-49; Figs. 1, 5). At the

time of the invention, it would have been obvious to one of ordinary skill in the art to utilize an indication device as taught by Elberty et al. in a system as disclosed by Smith for indication the received signal and for visually signaling to the user that the signal has been physically been received.

Regarding claim 17: Elberty et al discloses the indication circuitry includes a light emitting device (518) configured to emit a human visible signal to indicate the presence (col. 10, lines 45-48; Fig. 5).

Regarding claim 18: Elberty et al. discloses the wireless signal includes data and the communication circuitry is configured to output the control signal comprising the data (col. 10, lines 24-48).

Regarding claim 19: Elberty et al. the communication circuitry is configured to output a wireless signal (122) (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 20: Elberty et al. discloses a battery coupled with the communication circuitry and the indication circuitry (Fig. 5, col. 11, lines 1-6).

Regarding claim 21: Smith discloses a wireless communication device includes a substrate (18); a communication circuitry (54) of the integrated circuit coupled to the substrate and configured to receive a wireless signal including the identification signal; to process the identification signal of the wireless signal and to output a control signal responsive to the processing of the identification signal; wherein the communication circuitry is configured to output another wireless signal including backscattering electromagnetic energy received by the radio frequency identification device (col. 3, lines 21-51; col. 5, lines 20-60). Smith does not disclose a plurality of radio frequency

devices. Elberty et al. discloses an identification system comprising an interrogator (100) configured to output a wireless signal (118, 120) to identify at least one of a plurality of radio frequency identification devices (500); plural radio frequency identification devices (500) individually configured to receive the wireless signal (118, 120) and to selectively emit a human perceptible signal (518) to indicate presence; and wherein only the at least one radio frequency identification device identified by the wireless signal is configured to output the human perceptible signal responsive to receiving the wireless signal (col. 4, lines 5-25, 48-67; col. 5, lines 1-8; col. 10, lines 24-48). At the time of the invention, it would have been obvious to one of ordinary skill in the art to utilize a plurality of radio frequency devices as taught by Elberty et al. in a system as disclosed by Smith for monitoring a group of identification devices in the monitoring environment.

Regarding claim 22: Elberty et al. discloses the radio frequency identification devices (500) individually include a light emitting device (518) configured to emit a human visible signal to indicate presence (col. 10, lines 45-48).

Regarding claim 23: Elberty et al. discloses the wireless signal (120) includes an identifier and the at least one radio frequency identification device is configured to indicate presence responsive to the identifier (col. 5, lines 23-30; col. 10, lines 45-48).

Regarding claim 24: Elberty et al. discloses the radio frequency identification devices are individually configured to output wireless signals (col. 4, lines 21-25; col. 5, lines 23-49; col. 10, lines 45-48).

Regarding claim 31: See the claim 1 above.

Regarding claim 32: Elberty et al. discloses outputting the wireless signal (118, 120) using an interrogator (100) (Figs. 1, 5).

Regarding claim 33: Elberty et al. discloses the indicating includes emitting a human perceptible signal (col. 10, lines 45-48).

Regarding claim 34: Elberty et al. discloses the indicating includes emitting a human visible signal (col. 10, lines 45-48).

Regarding claim 35: Elberty et al. discloses the wireless signal includes data and the control signal comprises the data (col. 10, lines 24-48).

Regarding claim 46: Smith discloses a wireless communication device includes a substrate (18); a communication circuitry (54) of the integrated circuit coupled to the substrate and configured to receive a wireless signal including the identification signal; to process the identification signal of the wireless signal and to output a control signal responsive to the processing of the identification signal; wherein the communication circuitry is configured to output another wireless signal including backscattering electromagnetic energy received by the radio frequency identification device (col. 3, lines 21-51; col. 5, lines 20-60). Smith does not disclose a plurality of radio frequency devices. Elberty et al. discloses an identification system comprising an interrogator (100) configured to output a wireless signal (118, 120) to identify at least one of a plurality of radio frequency identification devices (500); plural radio frequency identification devices (500) individually configured to receive the wireless signal (118, 120) and to selectively emit a human perceptible signal (518) to indicate presence; and wherein only the at least one radio frequency identification device identified by the

wireless signal is configured to output the human perceptible signal responsive to receiving the wireless signal (col. 4, lines 5-25, 48-67; col. 5, lines 1-8; col. 10, lines 24-48). At the time of the invention, it would have been obvious to one of ordinary skill in the art to utilize a plurality of radio frequency devices as taught by Elberty et al. in a system as disclosed by Smith for monitoring a group of identification devices in the monitoring environment.

Regarding claim 47: Elberty et al. discloses the emitting includes emitting a human visible signal (col. 10, lines 45-48; Fig. 5).

Regarding claim 48: Elberty et al. discloses the wireless signal includes data and the emitting is responsive to the data (col. 10, lines 24-48).

Regarding claim 49: Elberty et al. discloses the outputting the wireless signal includes outputting an identifier (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 50: Elberty et al. discloses processing the wireless signal and the emitting is responsive to the processing (col. 10, lines 1-48).

Regarding claim 51: Elberty et al. discloses the communication circuitry is configured to output the control signal comprising coded signal which are obviously digital information (col. 4, lines 21-27).

Regarding claim 52: Elberty et al. discloses the communication circuitry is configured to extract digital data from the wireless signal and to output the control signal comprising the extracted digital data (col. 4, lines 21-51).

Regarding claim 53: Elberty et al. discloses an antenna (502) coupled with the communication circuitry and the control signal is configured to alter the impedance of



the antenna to backscatter modulate a continuous wave signal received at the antenna (col. 9, lines 41-67; col. 10, lines 1-48).

Regarding claim 54: Elberty et al. discloses the communication circuitry is configured to output a wireless signal (122) (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 55: Elberty et al. discloses the communication circuitry is configured to output a wireless signal having data therein according to the control signal (col. 4, lines 21-25; col. 5, lines 23-49; Fig. 5).

Regarding claim 56: Elberty et al. discloses the communication circuitry comprises a processor (516) configured to execute executable instructions to process the identifier (col. 10, lines 23-48).

Regarding claim 57: See claim 51 above.

Regarding claim 63: Elberty et al. discloses the communication circuitry comprises radio frequency identification device circuitry (col. 5, lines 23-37; Fig. 5).

Regarding claims 66-68: Smith et al. discloses the another wireless signal identifies the radio frequency identification device (col. 5, lines 45-60).

***Allowable Subject Matter***

Claims 5-15, 25-30, 36-44, 58-61, 64 and 65 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 1-4, 16-24, 31-35, 46-57 and 53 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan N Pham whose telephone number is (703)306-3038. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J Wu can be reached on (703) 308-6730. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 27, 2004

TOAN N. PHAM  
PRIMARY EXAMINER

